

PUBLIC NOTICE

**US Army Corps
of Engineers®**

Modification and Re-issuance
of Permit No. 88-0021500-RRS

LOS ANGELES DISTRICT

Public Notice/Application No.: 200400748-RRS

(Reissuance of the 1996 LMP permit 88-0021500-RRS)

Comment Period: September 1, 2004 through September 21, 2004

Project Manager: Robert Revo Smith Jr. P.E., (213) 452-3419 robert.r.smith@usace.army.mil

Co-Applicants

City of Lake Elsinore (City)
130 S. Main Street
Lake Elsinore, CA 92530

Agent

Vandermost Services
Julie Vandermost
(949) 489-2700

Santa Ana Watershed Protection Authority (SAWPA)
Dan Cozad
11615 Sterling Avenue
Riverside, CA 92503

Elsinore Valley Municipal Water District (EVMWD) – Phil Miller
31315 Chaney Street
Lake Elsinore, CA 92530

John Laing Homes (Laing)
Mike Fuller
(909) 245-9075

Location

The proposed project is located in the Back Basin of Lake Elsinore, Riverside County, California
(at: 33° 38' 33" N; 117° 18' 38" W)

Activity

The proposal is for John Laing Homes, EVMWD, and the City to remedy a series of mitigation compliance issues relating to the Lake Elsinore Management Project (LMP) permit and to modify the special conditions of the 1996 LMP permit that allowed for permanent development in the back basin. The Corps also proposes to reissue a U.S. Army Corps of Engineers Section 404 permit based on the 1996 LMP permit #88-00215-RRS that shall further allow for permanent development in the back basin. Please see page 3 of this notice for additional information.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This modification will be issued or denied under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344). Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District
Attn: Robert Smith
Regulatory Branch – San Diego Office
ATTN: CESPL-CO—200400748-RRS
16885 W. Bernardo Dr., Suite 300a
San Diego, California 92127

Alternatively, comments can be sent electronically to: robert.r.smith@usace.army.mil

Evaluation Factors

The decision whether to modify the permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

Environmental Impact Statement (EIS) Determination- In 1988 the District Engineer made a determination with issuance of the original LMP permit that the construction of the LMP project would not necessitate an EIS as long as the Corps reviewed the City's master plan for any permanent development in the back basin and made a subsequent determination that any development would not result in significant impacts. In 1995 the Corps reviewed the City's master plan this development (East Lake Specific Plan) along with a requested change to the

jurisdictional determination of the Ordinary High Water Mark (OHWM) in the back basin from 1260 ft. MSL to 1246 Ft. MSL. In 1996 the District Engineer made a determination that an EIS was not warranted for the East Lake Specific Plan as long as certain conditions were added to the LMP permit that insured that: 1) impacts to flood storage based on the Corps Outlet channel project requirements would be reviewed and mitigated, 2) the LMP wetlands and mitigation would be successful and buffered from any development, 3) that all mitigation for the LMP project met the original success criteria and that any permanent water quality impacts from development in the back basin be mitigated. The District Engineer also made a determination that the OHWM would be lowered to 1246 ft. MSL in the back basin as long as the permittees (SAWPA and the City) complied with the revised LMP permit. The resource agencies agreed that the revised LMP permit would mitigate their concerns. A supplemental Environmental Assessment (EA) was prepared by the Corps and the City and SAWPA agreed to the revised LMP permit and signed the modified permit in 1996.

In 1999 the Corps received a submittal from the City and a developer, Liberty Founders, LLC to construct the Liberty Village One master planned community in the back basin. The developer also proposed to comply with the revised LMP special conditions including the remediation of the noncompliance issues surrounding the 356-acre wetlands and the creation of the riparian corridor in the historic San Jacinto River in the back basin. After public review and resolution of some of the issues governing any work in the back basin the City and the developer withdrew their proposal and the Corps withdrew the request for a modified permit on March 1, 2001.

Since 2001 the Corps has been working with the City and EVMWD (as a representative of SAWPA) to insure that the mitigation was a success but the lack of hydrology and other issues noted in the Corps public notice for the Liberty project have not been resolved. The Corps has made several requests to EVMWD to increase the water levels in the back basin, but due to excessive evaporative losses, drought, and high pumping costs, EVMWD has only partially complied with the Corps requests. As a result the original LMP mitigation sites exhibit marginal wetland hydrology and temporal loss of open water habitat and the original LMP mitigation has not met the required success criteria. To date the Corps has not approved the original LMP mitigation but continues to work with EVMWD to restore and monitor hydrology to the 356-acre mitigation site and the original historic LMP San Jacinto River mitigation site.

On February 26, 2004 the Corps received a request from Vandermost Consulting Services, Inc. to change the permit special conditions and the original LMP mitigation areas and reissue the 1996 LMP permit to facilitate a new plan by Laing Homes. A preliminary determination has been made that an environmental impact statement is not required for the proposed permit re-issuance and modification. The 1996 modified LMP permit prescribed measures for mitigating LMP project impacts to Lake Elsinore and the back basin of Lake Elsinore to below a level of significance in order to insure that an EIS was not required; this reissued LMP permit shall further enhance those measures by preparing a Supplemental EA that addresses changes to those measures due to the 707-acre Laing Homes Project. Laing Homes proposes a plan to insure that the LMP project mitigation meets the required success criteria as a co-permittee to the reactivated LMP permit.

Water Quality- A water quality certification, under Section 401 of the Clean Water Act, was issued on October 7, 1999 by the California Regional Water Quality Control Board – Santa Ana region for the revised LMP project and the Liberty project. The Corps is hereby soliciting comments from the Regional Board regarding the validity of this previous certification for the

work being proposed by Laing Homes as the projects are very similar in impacts and most of the Laing Homes impacts are now outside of Corps jurisdiction. The Corps is reviewing jurisdiction of a small drainage and wetlands near the stadium being impacted by the Laing Homes project that may or may not be jurisdictional. The drainage is tributary to the back basin and appears to be jurisdictional but Laing Homes has stated they believe it to be isolated and non-jurisdictional. The Corps received a Pre-Construction notification for a Nationwide permit as a part of the Liberty project many years ago for the drainage and must now complete the jurisdictional determination.

Coastal Zone Management- This project is located outside the coastal zone and preliminary review indicates that it will not affect coastal zone resources.

Cultural Resources- Consistent with original public notice for the revised LMP and the Liberty project, the proposed mitigation would not result in impacts to cultural resources. The Corps had previously determined that the Liberty project would not adversely impact cultural resources in the back basin and the Laing Homes Project has similar impacts to the Liberty project.

Endangered Species- The Corps has previously received a report that Federally listed as endangered Riverside fairy shrimp were present in the vernal pool near the overflow weir in the back basin. A Biological Technical report was prepared in 2003 for the areas of the back basin that would be impacted in order to complete the modified mitigation plan. Laing Homes has avoided any direct impacts to the vernal pool and the Corps has tentatively determined that there is no affect to the listed shrimp. The restoration of the LMP mitigation areas and the Laing Homes project are within designated criteria areas of the MSHCP which is located in the back basin. The Corps is reviewing how the MSHCP criteria area mitigation requirements shall be implemented with the mitigation requirements of the reissued LMP permit. In addition, the biological technical report included specific survey information and conservation measures to comply with the MSHCP planning species and species overlay requirements. The County of Riverside has provided concurrence that proposed conservation in the back basin provides a suitable framework for determining consistency with the MSHCP.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Resolution of Mitigation Issues and Restoration

The original LMP permit was issued as Section 404 Permit No. 88-0021500-RRS in 1988. The LMP permit authorized the installation of the LMP project in the Lake Elsinore Back Basin that was subsequently completed. The LMP permit was then modified in 1996 to allow for permanent development in the back basin. To offset impacts to waters and mitigating environmental impacts from the original LMP project, the LMP required several mitigation measures including but not limited to preservation and creation of the historic San Jacinto River, the buffering of the 356-acre wetlands and creation of a 356-acre wetland. Also several special conditions of the modified LMP permit prescribed mitigation measures that compensated for impacts associated with permanent development in the back basin for flood storage, water quality, and buffering impacts to the original LMP wetlands mitigation. The co-applicants propose to modify the mitigation plan to further comply with the permit conditions and resolve the mitigation issues and change the buffer area of the original LMP wetlands.

The applicant proposes to modify the original mitigation plan of the LMP. The plan was permitted by Section 404 Permit 88-00215-RRS, which authorized the installation of the Levee in the Lake Elsinore Back Basin. To offset impacts to waters, the LMP required several mitigation measures including but not limited to the preservation and creation of riparian wetlands habitat of the historic San Jacinto River, creation of a 356-acre wetland, preservation of 71 acres and 155 acres each, of open space areas. One of the primary components of the LMP is to provide a reliable water source to the San Jacinto River and the 356-acre wetlands. The co-applicants propose to modify the mitigation plan to further comply with the Permit conditions.

As shown on the attached Figure 3, the applicants propose to provide the following mitigation: Temporarily impact 11.2 acres to lower and enhance the historic San Jacinto River remnant. The river is sparsely vegetated and no Corps jurisdictional wetlands are associated with the historic channel as the original riparian mitigation has been cut off hydrologically and EVMWD stopped pumping water to the river many years ago. This is an outstanding Corps mitigation requirement that Laing shall rectify for SAWPA and the City.

Once the river is lowered, it will be re-vegetated with native riparian habitat including mulefat and southern willow scrub. In addition the areas surrounding the river will be sloped to drain toward the river. This will create hydrologic connectivity to the remnant river segment. Water draining to the river will pass through filtration strips and/or sediment traps to manage water quality prior to discharge. Water will be discharged at numerous points up and down the river and on each side of the river corridor to ensure habitat growth and long-term viability. The existing conservation easement will be expanded to total the required 25 acres.

In addition, a 10-acre "Lake/River Corridor" will be created by providing reclaimed water or lake water through a new riparian area. The corridor will run from north to south and will be vegetated with riparian habitat.

The 71 acres of open space required by the LMP will be relocated within the back basin. The relocated 71-acre area will be vegetated with alkali weed, saltgrass, mule fat, arroyo willow, and California buckwheat. The 71 acres will be preserved in perpetuity as habitat/open space. The area is designed to buffer the north side of the 356-acre wetlands area. The remaining 155 acres of open space identified in the LMP is currently zoned as open space in the Eastlake Specific Plan. This area is below the 1,246-foot elevation line and is therefore jurisdictional under Section 404 of the Clean Water Act. The area is also identified as a preservation area in the MSHCP. The City has indicated that the area shall stay in a natural open space condition per the revised 1996 LMP permit condition which mandates that the 25 acres, the 155 acres, and 71 acres be placed in a conservation easement or zoned in perpetuity.

To provide a reliable water source to the 356-acre wetlands, the City will require that the John Laing Homes 706-acre Southerly development install a reclaimed water line to provide water flows in perpetuity directly to the 356-acre wetlands. This will ensure maximum water flow to the wetlands and reduce the loss of wetland hydrology and open water habitat from evapotranspiration, which would occur in an overland drainage.

In addition, the applicable special conditions of the LMP Section 404 Permit will remain in effect as follows:

Condition B

Submit revised Habitat Mitigation and Monitoring Plan for review and approval by the Corps for the entire LMP mitigation areas and the newly proposed mitigation areas.

Condition L

Complete HEC-5 analysis for review and approval by the Corps, Riverside County Flood Control and Water Conservation District, SAWPA, and EVMWD.

Condition M

Submit grading plans to the Corps demonstrating flood storage capacity, conveyance of a 45-100 year flood event, and hydrology to sustain the 356 acre wetlands and 25 acre wetlands. Grading plans to be submitted and approved by the Corps, Riverside County Flood Control and Water Conservation District, SAWPA, and EVMWD to insure that proper flood storage is maintained in the back basin.

Condition N/P

City shall submit delineation for Corps approval

Condition O/Q

Obtain written approval from Corps that any work below 1260' is consistent with the LMP.

The City of Lake Elsinore shall remain a permittee on the LMP Section 404 Permit. John Laing Homes and EVMWD will be added as co-permittees. The Corps may allow EVMWD to replace SAWPA as the responsible party for managing the LMP mitigation areas and resolving the noncompliance issues if EVMWD is willing to accept responsibility. The John Laing Homes Southerly Project would be responsible for specific mitigation on their 706 acre-development including; enhance and preserve the 25- acre San Jacinto River, create the 10-acre lake/river corridor, preserve and enhance 71 acres of open space, and create 20 acres of upland habitat within a proposed golf course. EVMWD and/or SAWPA shall be responsible for maintaining the necessary hydrology to the LMP mitigation areas.

Proposed Special Conditions

The Corps has previously developed conditions similar to the previous Liberty project for flood storage, conservation of buffer lands, and implementation of mitigation plans to resolve the outstanding noncompliance issues that shall be incorporated as stated above.

For additional information please call Robert Revo Smith Jr., P.E. of my staff at (213) 452-3419. This public notice is issued by the Chief, Regulatory Branch.

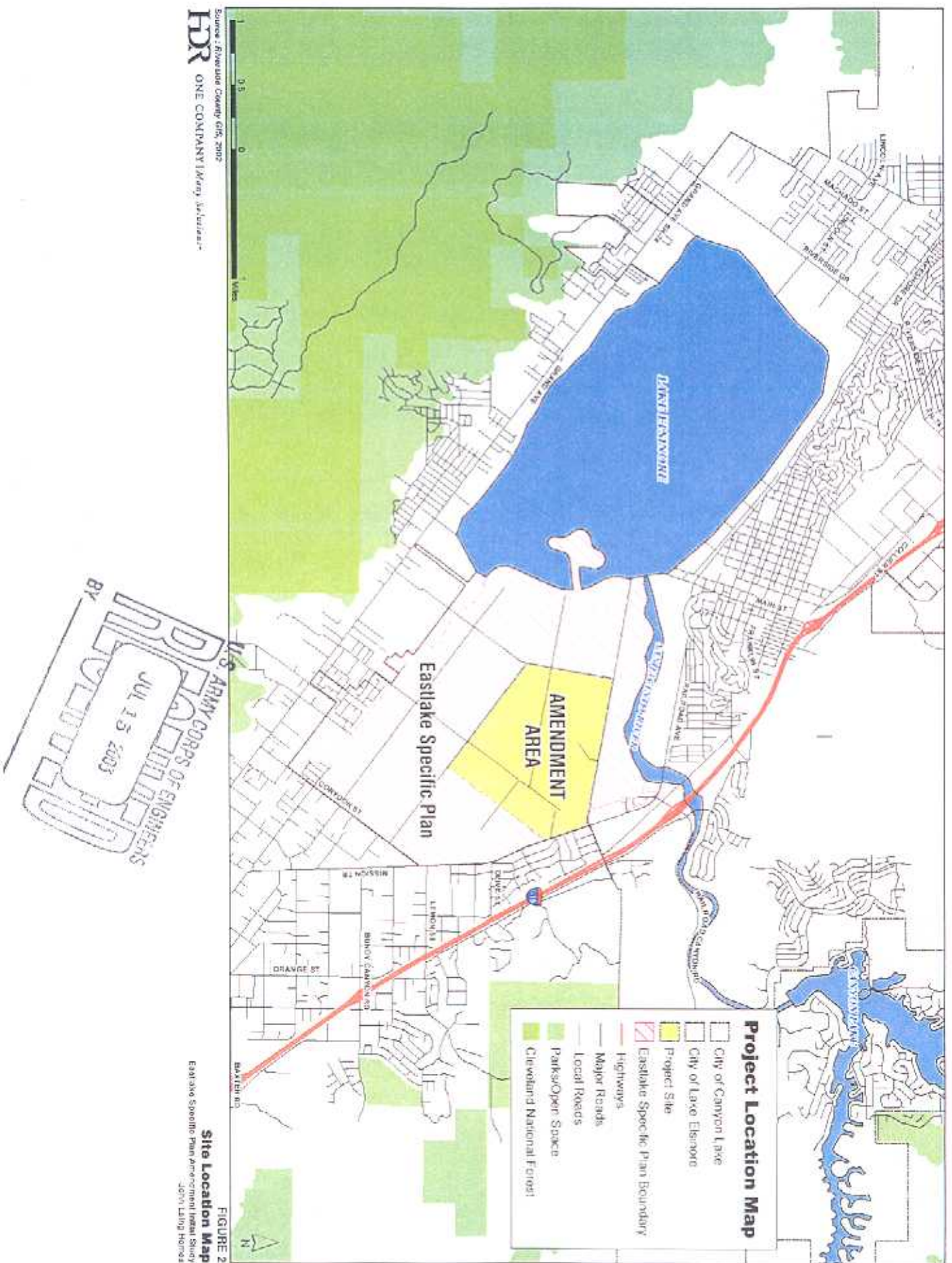
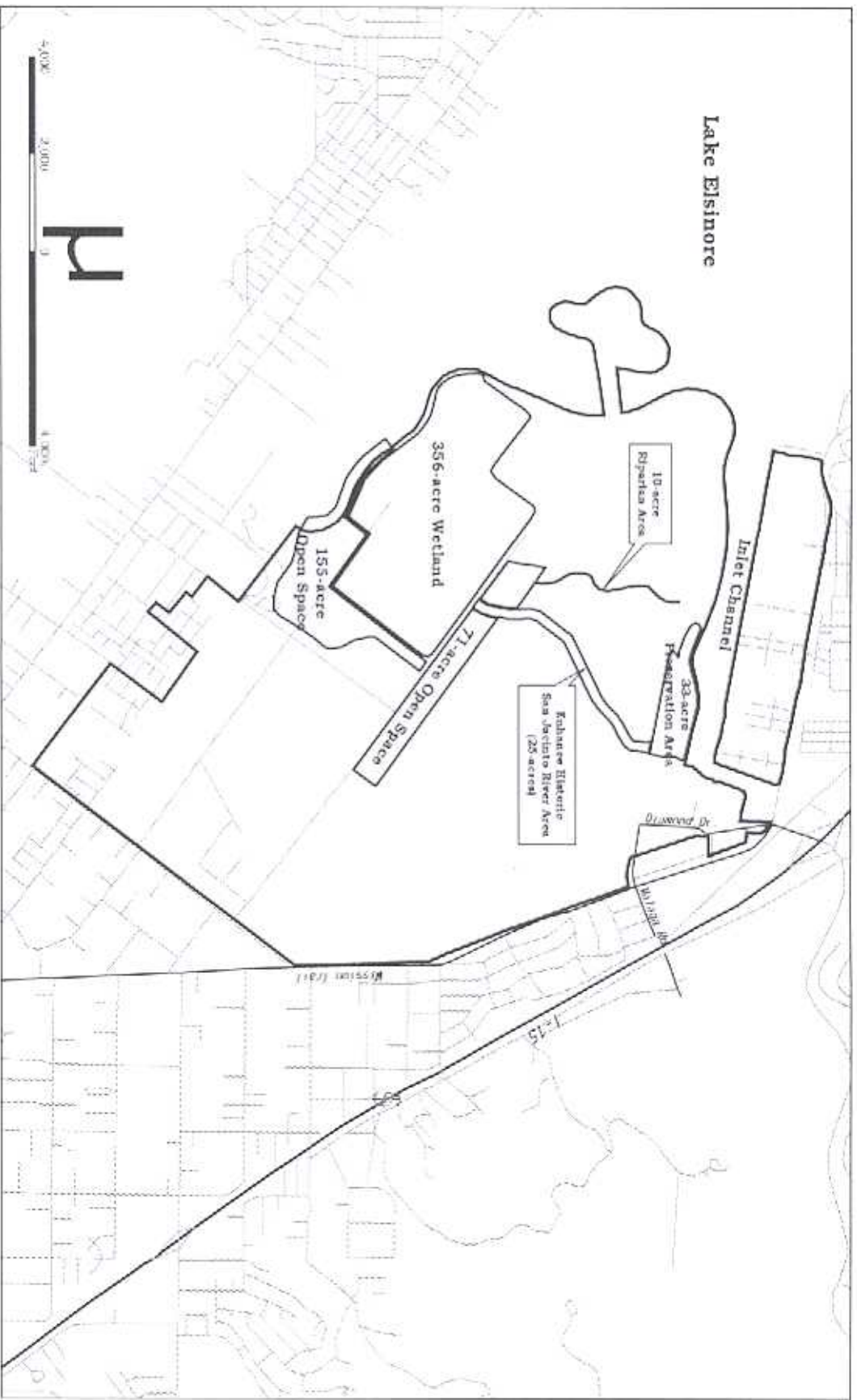




FIGURE 3
Aerial Photograph
 Eastlake Specific Plan Amendment Initial Study
 John Laing Homes

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 JUL 15 2003
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 BY

LAKE MANAGEMENT PLAN MITIGATION MODIFICATION



Conceptual Open Space Areas within JLH Project

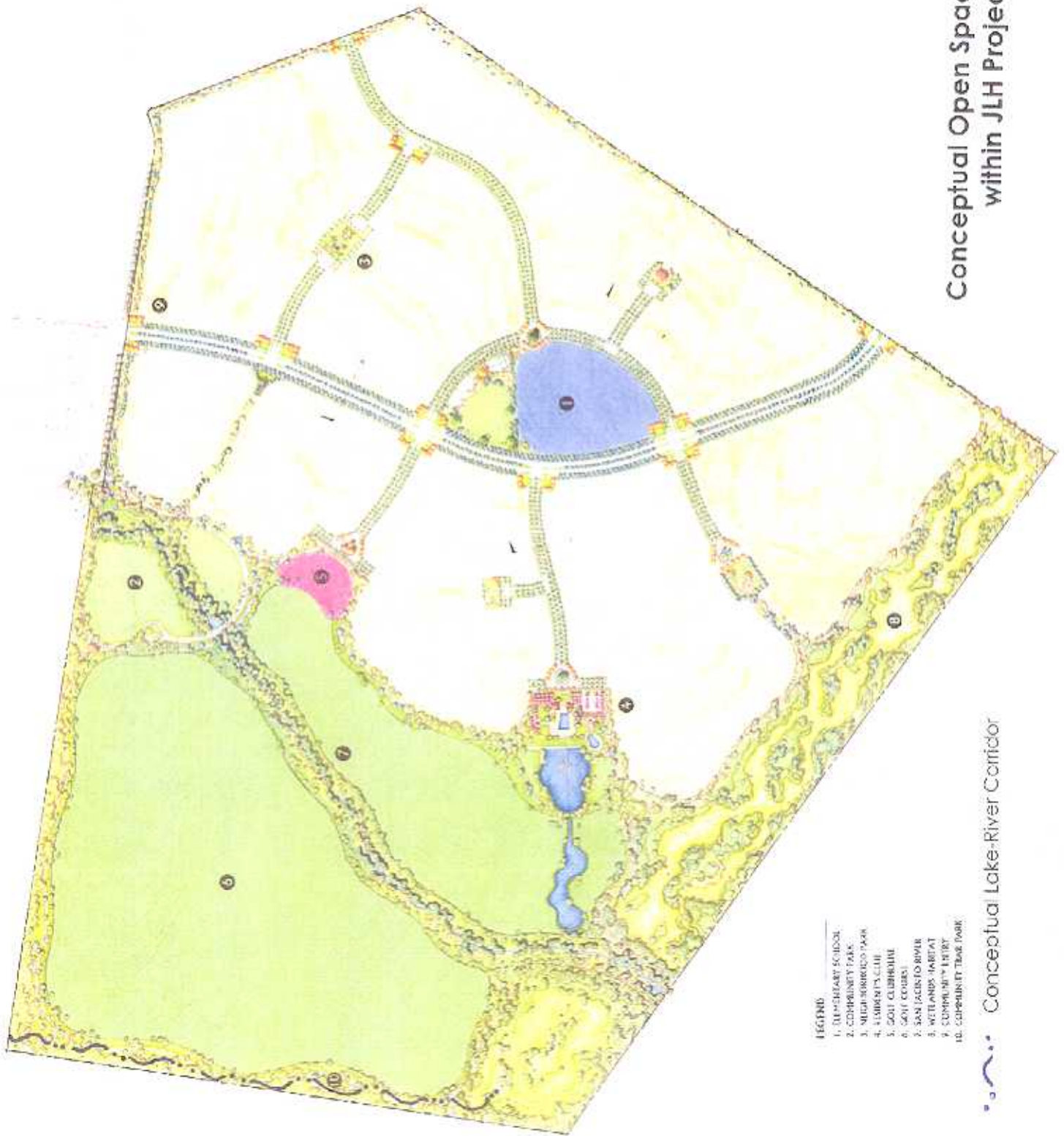


FIGURE 9



FIGURE 8



Source: USGS 1:50,000 National Elevation Data Set
 HDR ONE COMPANY/Army Engineers

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FIGURE 1
 Regional Location Map
 Examine Specific Urban Amendment Initial Study
 John Ling Hensel



Source: USGS 15M National Elevation Data Set
 HDR ONE COMPANY | Army Solutions

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FIGURE 1
 Regional Location Map
 Eastlake Spillway Plan Amendment Initial Study
 John Lang Morris

EASTLAKE SPECIFIC PLAN		
Conservation type	Location	Acreage
San Jacinto River Riparian waters and buffer	Laing CP development	25
Open Space buffer	Laing CP development	71
Vernal pool watershed	Back Basin	33
Lake Elsinore Inlet Channel	Back Basin	130
Upland revegetation in golf course	Laing CP development	20
Lake River corridor	Laing CP development	10
LMP wetlands	Back Basin	356
LMP upland conservation	Back Basin	155
TOTAL		800